

AMENDMENT OF SOLICITATION/MODIFICATION OF CONTRACT				1. CONTRACT ID CODE		PAGE OF PAGES 1 18	
2. AMENDMENT/MODIFICATION NO. 0001		3. EFFECTIVE DATE 12-Jul-2002		4. REQUISITION/PURCHASE REQ. NO. W90B3W20020622		5. PROJECT NO.(If applicable)	
6. ISSUED BY US ARMY ROBERT MORRIS ACQUISITION AMSSB-ACC/BLDG. E-4455 5183 BLACKHAWK ROAD ABERDEEN PROVING GROUND MD 21010-5424		CODE DAAD13		7. ADMINISTERED BY (If other than item 6) See Item 6		CODE	
8. NAME AND ADDRESS OF CONTRACTOR (No., Street, County, State and Zip Code)				X		9A. AMENDMENT OF SOLICITATION NO. DAAD13-02-R-0023	
				X		9B. DATED (SEE ITEM 11) 18-Jun-2002	
						10A. MOD. OF CONTRACT/ORDER NO.	
						10B. DATED (SEE ITEM 13)	
CODE		FACILITY CODE					
11. THIS ITEM ONLY APPLIES TO AMENDMENTS OF SOLICITATIONS							
<input checked="" type="checkbox"/> The above numbered solicitation is amended as set forth in Item 14. The hour and date specified for receipt of Offer <input checked="" type="checkbox"/> is extended, <input type="checkbox"/> is not extended. Offer must acknowledge receipt of this amendment prior to the hour and date specified in the solicitation or as amended by one of the following methods: (a) By completing Items 8 and 15, and returning <u> 1 </u> copies of the amendment; (b) By acknowledging receipt of this amendment on each copy of the offer submitted; or (c) By separate letter or telegram which includes a reference to the solicitation and amendment numbers. FAILURE OF YOUR ACKNOWLEDGMENT TO BE RECEIVED AT THE PLACE DESIGNATED FOR THE RECEIPT OF OFFERS PRIOR TO THE HOUR AND DATE SPECIFIED MAY RESULT IN REJECTION OF YOUR OFFER. If by virtue of this amendment you desire to change an offer already submitted, such change may be made by telegram or letter, provided each telegram or letter makes reference to the solicitation and this amendment, and is received prior to the opening hour and date specified.							
12. ACCOUNTING AND APPROPRIATION DATA (If required)							
13. THIS ITEM APPLIES ONLY TO MODIFICATIONS OF CONTRACTS/ORDERS. IT MODIFIES THE CONTRACT/ORDER NO. AS DESCRIBED IN ITEM 14.							
A.THIS CHANGE ORDER IS ISSUED PURSUANT TO: (Specify authority) THE CHANGES SET FORTH IN ITEM 14 ARE MADE IN THE CONTRACT ORDER NO. IN ITEM 10A.							
B.THE ABOVE NUMBERED CONTRACT/ORDER IS MODIFIED TO REFLECT THE ADMINISTRATIVE CHANGES (such as changes in paying office, appropriation date, etc.) SET FORTH IN ITEM 14, PURSUANT TO THE AUTHORITY OF FAR 43.103(B).							
C.THIS SUPPLEMENTAL AGREEMENT IS ENTERED INTO PURSUANT TO AUTHORITY OF:							
D.OTHER (Specify type of modification and authority)							
E. IMPORTANT: Contractor <input type="checkbox"/> is not, <input type="checkbox"/> is required to sign this document and return _____ copies to the issuing office.							
14. DESCRIPTION OF AMENDMENT/MODIFICATION (Organized by UCF section headings, including solicitation/contract subject matter where feasible.) The purpose of this amendment is to make clarifications and provide answers to offerors' questions to solicitation DAAD13-02-R-0023 as shown on the following pages. The Period of submitting proposals is extended to 23 July 2002 (4:00pm local time).							
Except as provided herein, all terms and conditions of the document referenced in Item 9A or 10A, as heretofore changed, remains unchanged and in full force and effect.							
15A. NAME AND TITLE OF SIGNER (Type or print)				16A. NAME AND TITLE OF CONTRACTING OFFICER (Type or print)			
15B. CONTRACTOR/OFFEROR _____ (Signature of person authorized to sign)		15C. DATE SIGNED		16B. UNITED STATES OF AMERICA BY _____ (Signature of Contracting Officer)		16C. DATE SIGNED 12-Jul-2002	

SECTION SF 30 BLOCK 14 CONTINUATION PAGE

SUMMARY OF CHANGES

Reference Original Solicitation: DAAD13-02-R-0023

Changes to the solicitation are in **boldtype** in the following sections:

Section B.2. Last sentence

Section C.3. Sub-paragraph c. Subcontracts

Section C.4. Sub-paragraph a. iii. First sentence changed “electronically” to “electronic.”

Section C.4. Sub-paragraph c. Foreign Patent Prosecution added paragraph xviii.

Section C.4. Sub-paragraph d. Interference Services ii.

Section C.5. Sub-paragraph 1. Scope of Invention(s) First sentence, deleted the word “additional.”

Section H.1. Delete the first two paragraphs in its entirety. Changes made to third paragraph.

Section H.3. Added paragraphs concerning ordering procedures.

Section I See attached page for additions/deletions of clauses.

Section L as follows:

L.1.1.2 Original and **four (4)** copies of Volume I

L.1.1.3 Original and **four (4)** copies of Volume II

L.2.1.1 Added into Volume I **Conflict of Interest Policy Statement**

L.2.1.1 Volume II, Cost Proposal, *Cost Estimate, last sentence changed.

L.8. Added paragraph on Pre-Award Survey.

Changes in Section B

B.1. This is an Indefinite Delivery/Indefinite Quantity contract with Time & Materials task orders and estimated quantities.

B.2. Contractor shall be paid for the actual hours used for each labor category in performance of each time and material delivery order at the fixed rate established for each category in the contract, subject to a not-to-exceed price. The estimated level of effort for each category of labor shall be set forth in each time and material task order (TO). **The contractor shall notify the Contracting Officer, in writing 30 days before the contractor anticipates incurring 85% of the Task Order ceiling price.**

B.3. The unit price quoted for each labor category shall encompass wages, overhead, General and Administrative (G&A) expenses (clerical and administrative personnel costs and shipping//mailing costs must be included in overhead or G&A expenses), and profit.

Changes to Section C

SECTION C DESCRIPTION/SPECIFICATIONS/WORK STATEMENT

C.1. PURPOSE

The Army Materiel Command (AMC) requires patent related services including search services, domestic patent prosecution, foreign patent prosecution, interference services, and licensing consultation. The Contractor shall provide services to the AMC Office of Command Counsel (AMCCC).

C.2. BACKGROUND.

Pursuant to the Federal Technology Transfer Act (FTTA), AMC has a significant program in patenting and licensing inventions with commercial potential. AMC is composed of various major subordinate commands each specializing in technologies associated with its mission. AMC laboratories and research development and engineering centers work with diverse technologies including but not limited to the following: aviation and missiles; communications and electronics; lasers and optics; electron microscopy; target detection; simulations; data fusion and knowledge management; computational science and engineering; ballistics; munitions and armaments; fuses; defense against weapons (small arms through high caliber munitions); chemical and biological detection and defense; power generation, transfer and storage; microelectromechanical systems; automotive and armored vehicles; fuels; fuel efficiencies; hydraulics, power trains and transmissions; material properties; nutrition; food preparation and storage; weather and environmental effects; and land mine detection and neutralization. It is expected that AMC will seek to file 50-100 patent applications each year and that invention disclosures will come from these and other areas. Those interested in learning more about AMC, its major subordinate commands and the technologies should explore AMC's home page <http://www.amc.army.mil> and the links thereto.

C.3. DISTRIBUTION OF CONTRACTS AND WORKLOAD.

a. Work Assignment.

After considering all available sources in view of an individual requirement, in accordance with FAR 16.505 (b), a work assignment will be made by AMCCC through the issuance of a Task Order (TO). No work may be undertaken by the Contractor without the receipt of a completed TO that has been signed by the Contracting Officer or by an AMCCC Task Ordering Official (TOO). In the event that a contractor cannot accept work, due either to time and/or resource constraints, or a professional conflict of interest, AMCCC will assign the work to another contractor. Work will only be assigned as deemed appropriate by AMCCC. The decision to assign work to a particular Contractor will be based on the TOO's judgment of the best interest of the Government considering the Contractor's expertise, experience, strengths, and price.

b. Conflict of Interest. Since the possibility exists for a conflict of interest between existing client relationships and responsibilities arising when performing services for the U.S. Government, prospective offerors are requested to see the paragraph on Conflict of Interest at paragraph H-1.

c. Subcontracts.

The Contractor shall not enter into a subcontract for performance of services under this Contract except with the prior written approval of the Contracting Officer. However, Patent Application Drawings may be accomplished by subcontractual efforts **when** the Contracting Officer has provided advance approval for this type of effort only. | This prohibition does not apply to prior art searches (paragraph C.4.a.i. and C.4.a.iii) **or** arrangements with | foreign associate counsel for foreign patent prosecution; however, the Contractor shall inform **the Contracting Officer and Task Ordering Officer** of the intent to use foreign associate counsel | for foreign patent prosecution when responding to a TO containing such a task.

C.4. STATEMENT OF WORK.

The following patent related services may be directed in individual TOs:

a. Search Services.

- i. with respect to invention(s) disclosed in an invention disclosure accompanying a TO, the Contractor shall search for and evaluate relevant scientific and technical publications and patents and indicate the relevant results of the search;
- ii. analyze patentability of the invention(s) disclosed in an invention disclosure accompanying a TO;
- iii. the search shall include an examination of the patent files (hard copies and electronic) of the United States Patent and Trademark Office (USPTO) to ascertain the existence of prior art patents and publications relevant to the invention(s) searched. If appropriate in defining a field of search, during the course of the search the Contractor shall consult with USPTO Patent Examiners, and consider foreign art and publications in the Examiners' files if available. Upon completion of the search, or at such other times as may be specified in the TO, copies of the pertinent art shall be furnished to AMCCC.

b. Domestic Patent Prosecution. The Contractor shall perform all necessary and appropriate services in connection with the prosecution of AMC patent applications filed in the USPTO including considering the possibility of potential Patent Cooperation Treaty (PCT) applications and national stage applications filed in foreign patent offices and with other foreign patent authorities. Domestic patent matters shall be handled in compliance with Title 35, United States Code (U.S.C.) and with Title 37, Code of Federal Regulations (CFR) and any other applicable laws and legal authorities. In conducting patent prosecution, the Contractor must be prepared, if needed, to provide services regarding interferences. Each action is subject to the review and approval of the AMCCC TOO:

- i. analyses and advice on patentability under U.S. law;
- ii. preparation and submission to the AMCCC Task Ordering Official of draft provisional and nonprovisional utility patent applications and design patent applications, based on invention disclosures provided by AMCCC, considering relevant prior art and following a contemplated prosecution strategy (when applicable, applications shall be prepared in accordance with the Specific Instructions in C.5. below);
- iii. development of prosecution and Claim strategies that ensure Claims directed to various aspects of the invention(s) including its likely commercial embodiments, such that the most commercially valuable patent results;
- iv. conferring with inventors and AMCCC as may be appropriate;
- v. preparation and timely submission to AMCCC of Information Disclosure Statements;
- vi. preparing drafts of documents for submission to the USPTO sufficiently prior to relevant response or filing deadlines so that AMCCC will have a reasonable time for review and to provide substantive comments and require the Contractor to make corrections or make such corrections itself in advance of such deadlines and before extension fees might need to be paid. A reasonable time is dependent upon the facts of the circumstances; however, AMCCC believes a minimum of 10 working days will be required for its review and preparation of comments (10

working day requirement applies specifically to responses due within a two or three-month shortened statutory response);

vii. preparation and timely submission to AMCCC of draft responses to various Office Actions and Notices from the USPTO such as including Notices of Incomplete or Missing Parts, Restriction Requirements, Rejections, Objections, and Notices of Non-Responsiveness, Notices of Abandonment, and other responses;

viii. preparation and timely submission to AMCCC of declarations, petitions, requests, affidavits and notices of appeal and appeal briefs;

ix. arranging for and timely submitting to AMCCC informal and formal Drawings, including: (1) preparation of informal or formal Drawings for the USPTO consistent with requirements for PCT practice; or (2) obtaining the Drawings from draftspersons subcontracted by the Contractor; and (3) delivering the Drawings to AMCCC, or the USPTO as directed;

x. conducting telephone or in person interviews with USPTO Patent Examiners as may be appropriate;

xi. in designated instances of direct filing by the Contractor, mailing copies of all papers filed in the USPTO to AMCCC, as well as other recipients identified on the TO, within five business days of their filing;

xii. in instances of direct communication from the USPTO, mailing copies of papers and attachments, within five business days of their receipt to AMCCC and other offices as may be designated;

xiii. delivering papers to inventors and AMCCC in order to preserve foreign patent rights and/or avoid the loss of domestic patent rights;

xiv. in designated instances of direct filing by the Contractor, obtaining signatures of inventors and/or designated authorities on legal papers and delivering them to the USPTO under very tight time constraints;

xv. arranging with AMCCC for timely deposit of organisms, cell lines and other biological materials that may be necessary to satisfy the requirements of Title 35 U.S.C., other applicable U.S. laws and treaties, and foreign laws;

xvi. preparing and timely submitting to AMCCC electronically readable nucleic acid and protein sequences according to USPTO requirements;

xvii. obtaining copies of patents, file histories, and assignment records;

xviii. evaluating complex patent matters on various topics including inventorship;

xix. conducting necessary and appropriate research and preparing memoranda presenting the results of such research;

xx. providing copies of relevant prior art and other documents evaluated in the course of reviewing the relevant scientific and technical literature or rendering patentability determinations;

xxi. providing substantive review on behalf of AMCCC on patent matters involving cases owned or co-owned by the Government but for which the primary case work is handled by some third party such as a licensee or co-owner;

xxii. presenting oral arguments before the USPTO Board of Patent Appeals and Interferences;

xxiii. preparing and prosecuting reissue and reexamination patent applications;

xxiv. providing appropriate support and assistance to other Government contractors who may be handling foreign counterpart and related patent cases;

xxv. providing to another Government Contractor all files and records, including work papers, draft documents, notes, etc., on a case should the case be reassigned; the transmitting Contractor shall (1) ensure timely mailing, (2) note any impending due dates for action and (3) provide notice to any patent offices in which applications are pending or were issued informing them of the reassignment of the case from their organization to the new Contractor and providing its address.

xxvi. miscellaneous or additional patent related matters falling within the scope of Title 37 CFR;

c. Foreign Patent Prosecution. The Contractor shall perform all necessary and appropriate services in connection with the prosecution of AMC patent applications filed in the USPTO as Patent Cooperation Treaty (PCT) applications and national stage applications filed in foreign patent offices or with other foreign patent authorities. Each action is subject to the review and approval of AMCCC TOO:

i. analyses and advice on patentability under foreign law;

ii. preparation and filing of foreign patent applications based on invention disclosures and/or U.S. Patent Applications, considering relevant prior art and following a contemplated prosecution strategy;

iii. development of prosecution and Claim strategies that ensure Claims directed to various aspects of the invention(s) including its likely commercial embodiments, such that the most commercially valuable patent results;

iv. preparation and timely submission to the appropriate authority of responses to any correspondence from foreign patent authorities requiring a response;

v. arranging for and timely submitting to the appropriate foreign patent authorities informal and formal Drawings, including: (1) preparation of informal or formal Drawings consistent with requirements for PCT practice, and foreign patent applications; or (2) obtaining the Drawings from draftspersons subcontracted by the Contractor; and (3) delivering the Drawings to the appropriate foreign corresponding attorney or foreign patent authorities;

vi. conducting telephone or in person interviews with foreign Patent Examiners as may be appropriate;

vii. conferring with inventors and AMCCC as may be appropriate;

viii. mailing copies of all papers filed with foreign patent authorities to AMCCC, as well as other recipients identified on the TO, within five business days of their filing or receipt from foreign corresponding attorneys. The copy forwarded to AMCCC shall contain a clean copy of the Claims in any filed response involving an amendment to the Claims;

ix. in instances of direct communication from foreign patent authorities and foreign associate counsel to the Contractor, mailing copies of papers and attachments, within five business days of their receipt to AMCCC and other offices as may be designated;

x. preparing drafts of documents for submission to foreign patent authorities sufficiently prior to relevant response or filing deadlines so that AMCCC will have a reasonable time for review and to provide substantive comments and require the Contractor to make corrections in advance of such deadlines. A reasonable time is dependent upon the facts of the circumstances; however, AMCCC believes a minimum of 10 working days will be required for review and preparation of comments;

- xi. preparing and filing of PCT applications and associated papers, and providing AMCCC with application and supporting documentation in the language required by the country in which the application is filed;
- xii. preparing and submitting responses to PCT communications regarding Chapter I and Chapter II procedures;
- xiii. coordinating the filing, prosecution, and maintenance of foreign patent properties which may be handled through associate foreign counsel;
- xiv. providing appropriate support and assistance to other Government contractors who may be handling related patent cases;
- xv. delivering papers to inventors and AMCCC in order to preserve foreign patent rights;
- xvi. obtaining signatures of inventors and/or designated authorities on legal papers and delivering them to foreign patent authorities or associate foreign counsel under very tight time constraints;
- xvii. evaluating complex patent matters on various topics.

xviii. filing fees for foreign patent prosecution will be an allowable material cost; |

d. Interference Services. Provide support for interference proceedings such as

- i. preparation and timely submission to AMCCC of interference related papers, notices, correspondence and other required documents;
- ii. presenting oral argument in support of AMCCC before the USPTO Board of Patent Appeals and Interference; and
- iii. performing other administrative functions related to interference practice.

e. Licensing Consultation.

- i. evaluate and provide informal and formal opinions regarding the business aspects of license agreements and related matters, such as financial evaluations for certain technologies and negotiation positions for complex licenses or dispute resolution;
- ii. identify potential licensees and evaluate their capabilities of developing commercial uses for AMC inventions;
- iii. provide information relevant to the determination of royalty rates appropriate for the technology to be licensed;
- iv. advise AMCCC on miscellaneous issues related to licensing and marketing.

C.5. SPECIFIC INSTRUCTIONS. In addition to the above, Contractors shall perform the following individual tasks as called out in each TO. This information is provided to generally let prospective Offerors know items of specific interest to AMC in the performance of certain tasks.

- a. Patentability Report. Prior art (either identified as a result of a patentability search or identified by AMCCC) shall be reviewed and, when required, a patentability search report prepared. The report shall include, as a minimum, the following information:
 - i. a brief description of the invention(s) searched;
 - ii. identification of the classes and subclasses searched;

- iii. a list of USPTO Patent Examiners, if any, contacted during the search;
- iv. a brief summary of the teachings of the identified prior art;
- v. a discussion of the novelty and obviousness of the invention(s) in light of the prior art, and a recommendation on the scope of Claim coverage that may be possible in the event a patent application is prepared for filing in the USPTO. The discussion shall particularly point out those features of the invention(s) which appear to patentably distinguish over the prior art.
- vi. a copy of all prior art not provided by AMCCC and other documents evaluated in the course of reviewing the relevant scientific and technical literature or rendering patentability determinations. If the references are unavailable at the time of delivery of the report they may be delivered subsequently but no later than the performance period specified in the TO.

b. Study and Evaluation. For TOs specifying the study and evaluation of patents or other materials, the Contractor shall perform the study and evaluation and shall submit a report to the AMCCC Task Ordering Official.

c. Domestic Patent Application Specification, Drawings, and Claims.

- i. The Specification, Drawings and Claims for all patent applications shall be in accordance with Title 35 U.S.C.; Volume 37, CFR, and other applicable U.S. legal authorities. The Application shall be arranged as required by 37 CFR 1.77 and should follow the guidelines laid out in the Manual for Patent Examining Procedures 608.01(a).
- ii. The Specification shall include the following statement after the "Title of the Invention" and the "Cross Reference to Related Applications" (when appropriate) and before Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on a compact disc (when appropriate) or the "Background of the Invention" (when there is no Sequence Listing):

Government Interest.
The invention described herein may be manufactured, used, and licensed by or for the United States Government.
- iii. The Specification shall be typed double-spaced on paper meeting the requirements of 37 CFR 1.52 which shall be 21.6 centimeters (cm) by 27.9 cm (8.5 by 11 inches) and utilize a left side margin of at least 2.5 cm (1 inch), and right side, top and bottom margins each of at least 2.0 cm (.75 inch). Pages shall be consecutively numbered at the bottom center of each page. Paragraph numbers shall be placed at the left margin beginning with **[0001]** (in bold print) followed by at least four spaces and shall be sequential to the end of the Specification.
- iv. The AMC Docket Number in the TO shall be placed in the upper right hand corner of each page of the Specification.
- v. Beginning with the number "5" on the fifth line of each Claim, each Claim shall have line numbers placed in the left margin every five lines within each Claim.
- vi. Claims shall cover a range of inventions including the broadest appropriate coverage reasonably permitted in view of the available prior art to the narrowest appropriate to ensure all patentable aspects of the invention are protected. The Specification should enable and the Claims should cover various aspects of the invention; most particularly those aspects with commercial or other designated value. When appropriate due to the complexity of a lengthy chain of Dependent Claims, at least one narrow Claim should be written in Independent format.
- vii. The Contractor shall not use multiple dependent Claims.

viii. Drawings shall be prepared on 8.5 inch by 11 inch paper in compliance with the requirements set forth in 37 CFR 1.84; however, the Drawings shall be so placed and sized on the sheet that if reproduced on A4 size paper the margins would still meet the requirements of 37 CFR 1.84. Identifying indicia will be provided for Drawings in accordance with 37 CFR 1.84(c) and shall include the title of the invention, the inventor's name and Application Serial Number or AMC Docket Number if an Application Serial number has not been assigned to the Application. This information will be provided on the front of each Drawing Sheet and centered within the top margin. Formal Drawings are to be supplied upon final acceptance of the draft application. Informal Drawings may be submitted when a statutory bar date prohibits the preparation of Formal Drawings by the date that the Application must be filed in the USPTO.

ix. In the cover letter accompanying any draft patent application(s) containing at least one Drawing the Contractor shall include a key to the numbering of the Drawings by reference number and item name.

x. In the cover letter accompanying any draft patent application(s), the Contractor shall explain its proposed Claim strategy and discuss proposed Claim scope in view of the inventor's disclosure and any prior art known to the Contractor.

d. Final Draft. The proposed final draft of the patent application shall be submitted to AMCCC at least 10 working days in advance of AMCCC's intended filing date as set forth in the TO unless permission is granted in writing by the AMCCC Task Ordering Official for later submission. The Final Draft shall be submitted in hard copies as described in C.5(c) above and shall include two copies on electronic media as either 3.5-inch diskettes or compact disks read only memory as appropriate for the size of the file. The electronic media shall contain the Specification in Microsoft Word® software format and the Drawings in "tif" or "pdf" format. Under normal circumstances, the Contractor shall not file patent applications with the USPTO. In exceptional cases, e.g. where a statutory bar or loss of foreign rights may be imminent, the Contractor should request the AMCCC Task Ordering Official for instructions whether the Contractor should file the patent application or deliver it immediately to AMCCC for review and timely filing.

e. Domestic Patent Prosecution Matters.

It is essential to AMCCC that patent prosecution matters be treated as a formal administrative proceeding complying with all formalities required under 35 U.S.C., 37 CFR, and the Manual of Patent Examining Procedures, not merely as a technical or scientific matter. Thus, responses to USPTO Office Actions must, for example, address each and every Rejection and Objection noted by the Patent Examiner and comment on the applicability or inapplicability of any cases cited by the Examiner. Responses must conform to all statutory and regulatory requirements. Additionally, issues associated with file wrapper estoppel must be identified, considered and addressed. Case citations for domestic patent prosecution must cite U.S. Court of Appeals for the Federal Circuit and the USPTO Board of Patent Appeals and Interferences and other sources as appropriate.

f. Deadlines.

i. The Contractor shall be cognizant of the requirement for timely handling and filing of submissions to the USPTO and other patent authorities and must provide work product in sufficient time for AMCCC to have adequate time to review the work product and meet such deadlines. The Contractor shall be cognizant of and endeavor to maximize patent term adjustments provided by the USPTO under the American Inventors Protection Act of 1999. The Contractor shall timely notify AMCCC of any necessary authorizations or other materials needed to perform the TO that have not been received from AMCCC.

ii. In the event of failure by the Contractor to perform within established timeframes for filing a patent application or response to a USPTO Office Action or foreign patent authorities' correspondence and it is determined by the Contracting Officer that the failure was due to a delay, a lack of action or inappropriate action by the Contractor, the Contractor and not AMCCC shall be liable for any fees and other additional costs to revive cases or to extend deadlines.

iii. In the event of a loss of intellectual property rights, if it is determined by the Contracting Officer to have been due to a lack of action or inappropriate action by the Contractor, such loss is considered to be grounds for termination of the contract by the Government.

g. Power of Attorney.

AMCCC shall normally obtain a principal power of attorney on the filing declaration to all AMCCC attorneys who are registered to practice before the USPTO. At the discretion of the AMCCC Task Ordering Official, the Contractor may be granted an associate power of attorney.

h. Mailing Address.

The mailing address for all USPTO correspondence will be Office of Command Counsel, Headquarters, U.S. Army Materiel Command, 5001 Eisenhower Avenue, Alexandria, VA 22333-0001 unless AMCCC otherwise notifies the Contractor via a TO.

i. Acceptance of Work Product.

i. The Contractor shall identify the preparer of all substantive work and shall indicate whether that person is an associate attorney/patent agent/scientific or technical advisor, senior associate or partner. If a work product is found to be unacceptable by the AMCCC Task Ordering Official by virtue of not conforming to the standards defined in this section, Title 37 CFR and Title 35 U.S.C. it will be returned to the Contractor and corrected without any additional cost to the contract.

ii. The Contractor agrees that AMCCC may communicate directly to the preparer concerning questions about the preparation of a specific deliverable such as a draft patent application or draft response to an Office Action.

j. Information Disclosure Statement.

Relevant prior art provided by AMCCC, the inventor, a search contractor or otherwise known to the Contractor shall be identified and discussed in the background section of the patent application. When required by 37 CFR 1.56 an Information Disclosure Statement shall be prepared at the time that a draft application is prepared.

k. Confidentiality.

Pending Patent Disclosures submitted by AMCCC to the Contractor must be preserved in secrecy. No information shall be given by the Contractor respecting the filing by a particular person of an application for patent, the pendency of any particular case or the subject matter of any particular disclosure or application, nor will access be given to or copies furnished of any pending application or papers relating thereto without permission of the AMCCC Task Ordering Official.

l. Scope of Invention(s).

If, during the Contractor's preparation of a draft patent application an inventor requests the addition of information which materially exceeds the original scope of the work and would result in increased cost to the Government, the Contractor shall not process same without prior written approval by the AMCCC Task Ordering Official. Unless the AMCCC Task Ordering Official provides written approval for additional work, the Contractor shall limit the Specification reasonably to the original disclosure submitted on the TO. The Government is not obligated to reimburse the Contractor for expanded work not specifically authorized in advance by the AMCCC Task Ordering Official.

C.6. ORDER PROCEDURES

- a. This solicitation will result in multiple award task order contracts. Award of individual task orders will be in accordance with the ordering procedures set forth in FAR 16.505 (b).
- b. AMCCC Task Ordering Official will prepare a computer generated TO that will be sent to the Contractor. Each TO will be for a specified deliverable product and have a unique number assigned to it for tracking and billing purposes.
- c. The Contractor shall complete the TO estimate, have it signed by the their appropriate official and return it to the AMCCC Task Ordering Official by overnight mail or facsimile. The AMCCC Task Ordering Official will evaluate the estimate for reasonableness, obtain any authorizations required, and sign the TO. The signed TO will be sent by AMCCC to the Contractor, either by facsimile or overnight mail, thus authorizing the Contractor to begin work on the requirement.
- d. The Contractor shall provide a detailed invoice for work when the deliverable for each TO is completed. No invoices will be accepted for costs not associated with completed deliverable—no partial payments are permitted. When invoiced deliverables are determined to meet contractual requirements, AMCCC will indicate acceptance and authorize payment
- e. In no instance shall the Contractor begin work without receipt of a TO, signed by the AMCCC Task Ordering Official. Contractor recognizes and agrees that any action taken otherwise shall be at the Contractor's risk and the Government is not obligated to pay for any such services.
- f. IT IS THE INTENT OF AMCCC THAT TASK ORDERING OFFICIALS MUST BE ACTIVELY INVOLVED WITH ONGOING TOs BY REVIEWING AND APPROVING EACH STEP OF THE PROSECUTION PROCESS.
- g. The Government anticipates that during the life of this contract, the issuance of TO estimates will be done electronically with software that is readily available or provided by the Government. AMCCC will work with the Contractor during the evaluation of the software requirements and will conduct pilot evaluations to determine the best and least costly approach to satisfy this requirement. The Contractor agrees to adapt to the electronic method when the procedures are fully implemented.
- h. Within the first two weeks after contract award, all Contractors that receive a contract as a result of this solicitation are required to attend a one day conference at AMCCC office in Alexandria, Virginia to meet the AMCCC staff and to review ordering and billing procedures and to receive software and review procedures for bar-coding transmittals. Attendance by the Contractor's Project Director and Business Manager (i.e. person responsible for billing matters with this contract) is required.

Changes in Section I

The following clauses which are incorporated by reference have been added or modified:

52.209-6	Protecting the Government's Interest When Subcontracting With Contractors Debarred, Suspended, or Proposed for Debarment	JUL 1995
52.216-19	Order Limitations	OCT 1995
52.227-12	Patent Rights--Retention By The Contractor (Long Form)	JAN 1997

The following clauses have been deleted:

52.215-10	Price Reduction for Defective Cost or Pricing Data	OCT 1997
52.215-12	Subcontractor Cost or Pricing Data	OCT 1997
52.215-14	Integrity of Unit Prices	OCT 1997
52.216-7 Alt I	Allowable Cost and Payment (Feb 2002) - Alternate I	FEB 1997
52.222-41	Service Contract Act Of 1965, As Amended	MAY 1989
52.222-43	Fair Labor Standards Act And Service Contract Act - Price Adjustment (Multiple Year And Option)	MAY 1989
52.227-1	Authorization and Consent	JUL 1995
52.227-2	Notice And Assistance Regarding Patent And Copyright Infringement	AUG 1996
252.227-7012	Patent License And Release Contract	SEP 1999
252.227-7023	Drawings and Other Data to become Property of Government	MAR 1979
252.227-7024	Notice and Approval of Restricted Designs	APR 1984
252.227-7033	Rights in Shop Drawings	APR 1966

Changes in Section H

SECTION H SPECIAL PROVISIONS

H.1. Conflict of Interest Policy Statement.

CHANGES: First two paragraphs deleted.

Each successful Contractor **shall** certify on each TO that no conflict of interest exists regarding the work requirement **in accordance with the Conflict of Interest policy statement approved by AMCCC.**

The Government is not obligated to issue a Task Order to a contractor if the Government believes that the Contractor may have a conflict of interest, and the Contractor may decline to accept any order based on a conflict of interest. Should any question be raised as to whether or not a situation is considered to be a conflict, the Contracting Officer shall make the final determination.

H.2. No Change

Added H.3. TASK ORDER AWARDS AMONG CONTRACT AWARDEES

a. This is a multiple award task order contract. Each contract awardee shall be given a fair opportunity to be considered for each task order in excess of \$2,500, once each awardee is assigned task orders that satisfy the minimum guarantee. Exceptions to this are further discussed in paragraph d. below.

b. The Ordering Officer/Contracting Officer will select the contractor for each task order award as is determined to be in the Government's best interest. The Ordering Officer/Contracting Officer is vested with broad discretion in making task order award decisions. The Ordering Officer/Contracting Officer will select the task order awardee based upon the following criteria:

**Capability
Cost
Personnel
Past Performance**

And any other factors which the Ordering Officer/Contracting Officer determines are appropriate for that task order.

c. Normally, each offer will be given the opportunity to submit a written or oral quotation (as specified by the Ordering Officer or Contracting Officer). The quotations shall include ceiling prices and staff proposed for the Task Order. The quotation shall be reviewed by the Government considering the criteria set-forth in paragraph b. The Ordering Officer/Contracting Officer may not contact each of the multiple awardees under the contract before selecting an order awardee if sufficient information is available to ensure that each awardee is provided a fair opportunity to be considered for each order.

d. The Ordering Officer/Contracting Officer may award a task order to one contract awardee without considering other contract awardees under the following circumstances:

1) The Ordering Officer/Contracting Officer determines that the agency need for such services or supplies is of such an urgency that providing such consideration would result in unacceptable delays; or

2) The Ordering Officer/Contracting Officer determines that only one of the contract awardees is capable of providing such services or supplies required at the level of quality required because the services of supplies ordered are unique or highly specialized; or

3) The Ordering Officer/Contracting Officer determines that the task order should be issued on a sole-source basis in the interest of economy and efficiency as a logical follow-on to a task order already issued under the contract.

Changes in Section L

SECTION L Instructions, Conditions and Notices to Bidders

L.1 Submission of Proposals

L.1.1 Proposals shall consist of the following:

L.1.1.1 One signed and completed copy of Standard Form 33 and attached continuation sheets

L.1.1.2 Original and **four (4)** copies of Volume I

L.1.1.3 Original and **four (4)** copies of Volume II

L.1.1.4 Forward Proposals to:

L.1.1.4.1 Mailing Address: U.S. Army Robert Morris Acquisition Center, APG Contracting Division, Edgewood Branch, ATTN: AMSSB-ACC-ED (Charles A. Comaty), Bldg E-4455, 5183 Blackhawk Road, Aberdeen Proving Ground, MD 21010-5424

L.1.1.4.2 Federal Express Address: U.S. Army Robert Morris Acquisition Center, APG Contracting Division, Edgewood Branch, ATTN: AMSSB-ACC-ED (Charles A. Comaty), Bldg E-4455, Aberdeen Proving Ground, MD 21010-5424

L.2 Preparation Instructions for Written Proposal

L.2.1 Format

L.2.1.1 The offeror's written proposal shall be submitted in two separate volumes as listed below:

Volume I	Contents
Capabilities Statement	Capabilities Statement can be a firm or company brochure or any other written material that demonstrates that your firm is capable of providing the range of patent services called out in the Statement of Work. Your capabilities statement shall be no more than 20 pages.
Patents	Submit five recent patents for which your firm has prepared the patent application and prosecuted to issue. At least one patent shall be electrical, at least one patent shall be chemical, and at least one patent shall be mechanical, biotechnology or computer process, as you determine appropriate, based on your firm's experience. The patents should be representative of the quality of product you intend to prepare for us. You should indicate the approximate number of hours spent preparing each application and in prosecuting the application to issue, and the labor rate category of the individuals who prepared and prosecuted each case.
Relevant Resumes	Submit up to ten resumes of individuals you reasonably expect will perform patent services work under the contract. Indicate if the individual's services will be limited to a particular category or categories of services, and, if applicable, the labor rate category for the individual's services: e.g., partner, senior associate, associate, patent agent. Each resume shall be no longer than two pages.
Professional References	Submit a listing of recent, relevant professional references (Government, corporate, or individual client) that we may contact. These references shall include an organization/company name and address, brief description of services performed, dollar value of services performed, point of contact, and telephone number. Your listing shall include at least three references, but no more than ten references. This information will be used to evaluate Past Performance (see Section M.4.3)
Conflict of Interest Policy Statement	Submit a policy statement addressing conflict of interest. Since contractors who submit proposals may also be involved in representing clients in the private sector on patent matters, the Government anticipates that there may be potential for a professional, economic, or other conflict of interest.
Volume II	Contents
Cost Proposal	<p>* Time & Materials – Provide a listing of fully burdened hourly rates to include wages, overhead, general and administrative (G&A) expenses (clerical and administrative personnel costs and shipping/mailing costs must be included in overhead or G&A expenses) , and profit. Propose hourly rates for the three year base period, as well as for each option year. Indicate whether the hourly rates apply for each category of services: Search Services; Domestic Patent Prosecution; Foreign Patent Prosecution; Interference Services; and Licensing Consultation.</p> <p>* Cost Estimate – Provide a cost proposal for the hypothetical patent effort Task Order described in paragraph L.6. This cost proposal shall include the total estimated cost for the effort, labor hours proposed for each category of labor, labor rates, and any material costs (subcontracts) anticipated.</p>
Business Information	Complete the Representations, Certifications, and Other Statements of Offerors as requested in Section K of the Solicitation.

L.2.2 All information the offeror wishes to have considered must be submitted with the initial proposal and shall be confined to the appropriate volume.

L.2.3 It is suggested that secure binders, such as locking ring binders, be used to assemble the separate volumes for ease of evaluation. Indexes to the proposal and cross-references between the proposal and the solicitation are useful for ensuring that all pertinent sections of the proposal are fully understood. The use of tabs to easily locate sections of the proposal also facilitates thorough evaluation.

L.3. Preparation Instructions for Oral Proposal

L.3.1 Within two weeks of receiving your written proposal, if you are determined to be within the competitive range, you will be contacted to set up a meeting about your proposal. This meeting will be considered part of your proposal; however, you will not be given an opportunity to correct or improve the written portion of your proposal.

L.3.2 The oral presentation shall include the following:

- Your firm's patent services capabilities
- Your firm's approach for staffing work orders
- Your firm's approach to foreign patent prosecution
- Your firm's approach for working with the Government legal representatives
- Your firm's approach for working with inventors
- Your firm's approach for meeting any unexpected "surge" requirements we may have
- Other information you deem relevant to our evaluation

L.3.3 The oral presentation will be 90 minutes and will be located at a destination to be determined by the Government.

L.4. Clauses Incorporated by Reference

.52.215-1 Alt I INSTRUCTIONS TO OFFERORS – COMPETITIVE ACQUISITIONS (FEB 2000)

L.5. Clauses Incorporated by Full Text

52.216-1 TYPE OF CONTRACT (APR 1984)

The Government contemplates award of an Indefinite Delivery/Indefinite Quantity task order contract. Task orders will be written on a Time and Materials basis.

52.233-2 SERVICE OF PROTEST (AUG 1996)

(A) Protests, as defined in section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the Contracting Officer, addressed as follows, by obtaining written and dated acknowledgment of receipt from:

U. S. Army Robert Morris Acquisition Center,
APG Contracting Division, Edgewood Branch
ATTN: AMSSB-ACC-ED (Charles A. Comaty)
5183 Blackhawk Road Bldg E-4455
Aberdeen Proving Ground, MD 21010-5424

(b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

52.252-1 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FEB 1998)

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this address:

<http://www.arnet.gov/far>

L.6. Hypothetical Patent Effort Task Order

The Task Order (TO) is for the preparation of a domestic patent application for an invention disclosure from a single inventor that runs 3 single spaced typewritten pages interspersed with 2 tables and 4 color drawings for an invention in the electrical arts. The disclosure refers to points of novelty accurately and adequately depicted by the color drawings; however, there are no reference numbers, and the drawings are almost obscured by the legends and formulas affixed thereto. You determine that the disclosure is of moderate complexity, and that it will support 3 independent claims and a total of 20 claims that will afford broad coverage and a varying degree of specificity supported by structure described in the disclosure and appearing on the drawings. The disclosure cites two U.S. Patents by two different non-governmental inventors that are attached and show related work but do not disclose the points of novelty indicated in the disclosure. Additional information from AMC Command Counsel (AMCCC) indicates that the inventor has knowledge of both non-governmental inventors, and from discussions at a recent IEEE conference, the inventor believes that neither non-governmental inventor is thinking along the lines disclosed in this disclosure. The disclosure has not been submitted to any professional journals for publication, and the inventor has only discussed his improvements with his supervisor. An electronic search has shown no patents that reference either of the enclosed patents. AMCCC has estimated that less than 20 hours will be required for the preparation of an application; however, there appears to be several minor points that will require minimal clarification from the inventor.

L.7. Questions Concerning the Solicitation

If an Offeror has any questions concerning this solicitation, it is recommended that they be submitted in writing to the Contracting Officer no later than (10) calendar days prior to the closing date of the solicitation. Questions received after that time may not receive a response.

L.8. Pre-Award Survey

The Government reserves the right to conduct a pre-award survey of offerors in order to determine that they are responsible prospective contractors in accordance with Part 9.100 of the Federal Acquisition Regulation. If determined to be in the Government's best interest, this survey may be conducted at the offeror's facility at the time of the oral presentation.

The following questions and answers are provided to offerors.

1. Question

Under Section L.2.1.1., the solicitation requests “profit” information. Please confirm if this information is needed from our firm which is a professional services organization (i.e., in which profits fluctuate based upon the amount of time entered and billed on a per matter basis) and/or the extent to which this information is required.

1. Answer

Profit is to be included into the loaded rate for each category of labor proposed. A specific cost “breakout” of profit is not required.

2. Question

Under Section L at page 30, the solicitation requests “references” from clients. In addition to client references, please confirm if we may submit a few references from a) officials at the U.S. Patent Office, b) officials at the U.S. Court of Appeals for the Federal Circuit (i.e., the AIPLA, the Giles Rich Inn of Court, etc.), d) officials at institutions at which our attorneys teach patent law (e.g., Georgetown University, Johns Hopkins, etc.). We believe that these recommendations may be helpful for your evaluation of our firm’s capabilities and commitment.

2. Answer

Client references are the only references that will be evaluated.

3. Question

In section L.1.1.1 it states, “One signed and completed copy of Standard Form 33 and attached continuation sheets.” Assuming SF33 is the first page of the RFP as e-mailed to us, does this mean that we should have one entire copy of this RFP with the information filled out in the appropriate boxes of the first page, as the first part of the proposal?

3. Answer

The completed SF33 and section K pages 25 through 28 should be included in the business information section of the proposal (Volume II). There is no need to include other sections of the RFP in the proposal.

4. Question

If (1) is yes, then Volumes I and II will not contain a copy of the RFP, correct?

4. Answer

Volumes I and II should not contain a copy of the entire RFP. Volume II should contain the completed SF33 and section K.

5. Question

In L.2.1.1, in Volume II, in the section defined as “Business Information”, it asks us to complete representations in Section K. Does this mean that this section should consist of a copy of Section K of the RFP (pages 24-28 of the RFP) with the appropriate boxes and checkmarks filled in?

5. Answer

Yes

6. Question

We have legal assistants in addition to the various level attorneys and agents. These legal assistants also assist in preparation and prosecution of al patent applications and have their own billing rates. May we include legal assistants in our proposal?

6. Answer

Yes

7. Question

In our estimate of rates for different classes of persons working on prosecution matters, should we account for billing rate increases for each of the initial three base years, and additionally, for each of the optional two additional years? In other words, may we include different rates for the same class of person (e.g., "associate") for each of the three (plus two) potential years of this proposal? Or, conversely, the rates should not change for a given class of person (e.g., "associate") throughout the life of the contract?

7. Answer

Offerors may propose billing rate increases (escalation) for each year of the contract.

8. Question

What is the preferred method by which you like to receive proposals (fax, email, etc.)?

8. Answer

Proposals must be submitted in hard copy format to the address set forth in paragraph L.1.1.4 (page 29) of the RFP.

9. Question

It appears that only the Conflicts Statement would actually be incorporated into the contract, but not information such as the List of References and Costing.

9. Answer

The only part of the proposal that will be incorporated into the contract is the conflicts statement.